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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JOHN WILLIAM KAIPO ENOS, an
individual and JOHNSON
ENTERTAINMENT, LLC, a Native
Hawaii limited liability company

Plaintiff,

v.

THE WALT DISNEY COMPANY, a
Delaware corporation; DISNEY
ENTERPRISES, INC., a Delaware
corporation; and DOES 1-10,
inclusive,

Defendant.

Case No. 2:23-cv-05790-DSF (AGRx)

STIPULATED PROTECTIVE
ORDER

(MRW VERSION 4/19)

ACTION FILED: JULY 18, 2023

☒ Check if submitted without
material modifications to MRW form

1. INTRODUCTION

1.1 PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

1.2 GOOD CAUSE STATEMENT

This action may involve trade secrets, customer and pricing lists and other valuable research, development, commercial, financial, technical and/or proprietary information for which special protection from public disclosure and from use for any purpose other than prosecution of this action is warranted. Such confidential and proprietary materials and information may consist of, among other things, confidential business or financial information, information regarding confidential business practices, or other confidential research, development, or commercial information (including information implicating privacy rights of third parties), intellectual property and trade secrets, information otherwise generally unavailable to the public, or which may be privileged or otherwise protected from disclosure under state or federal statutes, court rules, case decisions, or common law.

1 Accordingly, to expedite the flow of information, to facilitate the prompt resolution
2 of disputes over confidentiality of discovery materials, to adequately protect
3 information the parties are entitled to keep confidential, to ensure that the parties are
4 permitted reasonably necessary uses of such material in preparation for and in the
5 conduct of trial, to address their handling at the end of the litigation, and serve the
6 ends of justice, a protective order for such information is justified in this matter. It
7 is the intent of the parties that information will not be designated as confidential for
8 tactical reasons and that nothing be so designated without a good faith belief that it
9 has been maintained in a confidential, non-public manner, and there is good cause
10 why it should not be part of the public record of this case.

11 2. DEFINITIONS

12 2.1 Action: The above captioned action, Case No. 2:23-cv-05790-DSF-
13 MRW.

14 2.2 Challenging Party: a Party or Non-Party that challenges the
15 designation of information or items under this Order.

16 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
17 how it is generated, stored or maintained) or tangible things that qualify for
18 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
19 the Good Cause Statement.

20 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
21 their support staff).

22 2.5 Designating Party: a Party or Non-Party that designates information or
23 items that it produces in disclosures or in responses to discovery as
24 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL-ATTORNEYS’ EYES
25 ONLY.”

26 2.6 Disclosure or Discovery Material: all items or information, regardless
27 of the medium or manner in which it is generated, stored, or maintained (including,
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1 among other things, testimony, transcripts, and tangible things), that are produced or
2 generated in disclosures or responses to discovery in this matter.

3 2.7 Expert: a person with specialized knowledge or experience in a matter
4 pertinent to the litigation who has been retained by a Party or its counsel to serve as
5 an expert witness or as a consultant in this Action.

6 2.8 “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY”
7 Information or Items: Information (regardless of how it is generated) that qualifies
8 as or contains extremely sensitive information, the disclosure of which to another
9 party would create a risk of competitive injury, including but not limited to: (i)
10 marketing, financial, sales, web traffic, research and development, or technical, data
11 or information; (ii) commercially sensitive competitive information, including,
12 without limitation, information obtained from a Non-Party pursuant to a current
13 Nondisclosure Agreement (“NDA”); (iii) information or data relating to future
14 products not yet commercially released and/or strategic plans; (iv) trade secret, or
15 other confidential research and development information; and (v) commercial
16 agreements, settlement agreements or settlement communications, the disclosure of
17 which is likely to cause harm to the competitive position of the Producing Party.

18 2.9 House Counsel: attorneys who are employees of a party to this Action.
19 House Counsel does not include Outside Counsel of Record or any other outside
20 counsel.

21 2.10 Non-Party: any natural person, partnership, corporation, association, or
22 other legal entity not named as a Party to this action.

23 2.11 Outside Counsel of Record: attorneys who are not employees of a
24 party to this Action but are retained to represent or advise a party to this Action and
25 have appeared in this Action on behalf of that party or are affiliated with a law firm
26 which has appeared on behalf of that party, and includes support staff.

2.12 Party: any party to this Action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and any of their respective support staffs).

2.13 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this Action.

2.14 Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

2.15 Protected Material: any Disclosure or Discovery Material that is designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY.”

2.16 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

3. SCOPE

The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected Material.

Any use of Protected Material at trial will be governed by the orders of the trial judge. This Order does not govern the use of Protected Material at trial.

4. DURATION

Even after final disposition of this litigation, the confidentiality obligations imposed by this Order will remain in effect until a Designating Party agrees

otherwise in writing or a court order otherwise directs. Final disposition will be deemed to be the later of (1) dismissal of all claims and defenses in this Action, with or without prejudice; and (2) final judgment herein after the completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action, including the time limits for filing any motions or applications for extension of time pursuant to applicable law.

5. DESIGNATING PROTECTED MATERIAL

5.1 Exercise of Restraint and Care in Designating Material for Protection.

Each Party or Non-Party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. The Designating Party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this Order.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber the case development process or to impose unnecessary expenses and burdens on other parties) may expose the Designating Party to sanctions.

If it comes to a Designating Party's attention that information or items that it designated for protection do not qualify for protection, that Designating Party must promptly notify all other Parties that it is withdrawing the inapplicable designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see, e.g., second and third paragraphs of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for

1 protection under this Order must be clearly so designated before the material is
2 disclosed or produced.

3 Designation in conformity with this Order requires the following:

4 (a) for information in documentary form (e.g., paper or electronic documents,
5 but excluding transcripts of depositions or other pretrial or trial proceedings), that
6 the Producing Party affix at a minimum, the legend “CONFIDENTIAL” or
7 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” (hereinafter, the
8 “Confidentiality legend”), to each page that contains protected material. If only a
9 portion or portions of the material on a page qualifies for protection, the Producing
10 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
11 markings in the margins).

12 A Party or Non-Party that makes original documents available for
13 inspection need not designate them for protection until after the inspecting Party has
14 indicated which documents it would like copied and produced. During the
15 inspection and before the designation, all of the material made available for
16 inspection will be deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
17 ONLY.” After the inspecting Party has identified the documents it wants copied
18 and produced, the Producing Party must determine which documents, or portions
19 thereof, qualify for protection under this Order. Then, before producing the specified
20 documents, the Producing Party must affix the applicable “Confidentiality legend”
21 to each page that contains Protected Material. If only a portion or portions of the
22 material on a page qualifies for protection, the Producing Party also must clearly
23 identify the protected portion(s) (e.g., by making appropriate markings in the
24 margins).

25 To the extent materials are produced by a Non-Party that a Party
26 contends should be designated as “CONFIDENTIAL” or “HIGHLY
27 CONFIDENTIAL,” the Party shall have seven (7) days from the date of production
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1 to designate the produced materials as “CONFIDENTIAL” or “HIGHLY
2 CONFIDENTIAL.”

3 (b) for testimony given in depositions that the Designating Party may either:

4 (i) identify on the record, before the close of the deposition, all
5 protected testimony by specifying all portions of the testimony that qualify as
6 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
7 EYES ONLY;” or

8 (ii) designate the entirety of the testimony at the deposition as
9 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
10 EYES ONLY” before the close of the deposition, with the right to identify
11 more specific portions of the testimony as to which protection is sought
12 within thirty (30) days following receipt of the deposition transcript. In
13 circumstances where portions of the deposition testimony are designated for
14 protection, the transcript pages containing “CONFIDENTIAL” or “HIGHLY
15 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information may be
16 separately bound the court reporter, who must affix to the top of each page the
17 applicable Confidentiality Legend, as instructed by the Designating Party.

18 (c) for information produced in some form other than documentary and for
19 any other tangible items, that the Producing Party affix in a prominent place on the
20 exterior of the container or containers in which the information is stored the legend
21 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
22 ONLY.” If only a portion or portions of the information warrants protection, the
23 Producing Party, to the extent practicable, will identify the protected portion(s).

24 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
25 failure to designate qualified information or items, or inadvertent designation as
26 “CONFIDENTIAL” instead of “HIGHLY CONFIDENTIAL – ATTORNEYS’
27 EYES ONLY” does not, standing alone, waive the Designating Party’s right to
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secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court's Scheduling Order.

6.2 Meet and Confer. The Challenging Party will initiate the dispute resolution process (and, if necessary, file a discovery motion) under Local Rule 37.1 et seq.

6.3 The burden of persuasion in any such challenge proceeding will be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties will continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

7. ACCESS TO AND USE OF PROTECTED MATERIAL

7.1 Basic Principles. A Receiving Party, or any other person or entity in receipt of Protected Material pursuant to paragraphs 7.2 and 7.3 herein, may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this Action only for prosecuting, defending, or attempting to settle this Action, and not for any business or other purpose whatsoever. Such Protected Material may be disclosed only to the categories of persons and under the

1 conditions described in this Order. When the Action has been terminated, a
2 Receiving Party must comply with the provisions of Section 13 below (FINAL
3 DISPOSITION).

4 Protected Material must be stored and maintained by a Receiving Party at a
5 location and in a secure manner that ensures that access is limited to the persons
6 authorized under this Order.

7 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
8 otherwise ordered by the court or permitted in writing by the Designating Party, a
9 Receiving Party may disclose any information or item designated
10 “CONFIDENTIAL” only to:

11 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
12 well as employees of said Outside Counsel of Record to whom it is reasonably
13 necessary to disclose the information for this Action;

14 (b) the officers, directors, and employees (including House Counsel) of
15 the Receiving Party to whom disclosure is reasonably necessary for this Action;

16 (c) Experts (as defined in this Order) of the Receiving Party to whom
17 disclosure is reasonably necessary for this Action and who have signed the
18 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

19 (d) the Court and its personnel;

20 (e) court reporters and their staff;

21 (f) professional jury or trial consultants, mock jurors, and Professional
22 Vendors to whom disclosure is reasonably necessary for this Action and who have
23 signed the “Acknowledgment and Agreement to Be Bound” attached as Exhibit A
24 hereto;

25 (g) the author or recipient of a document containing the information or a
26 custodian or other person who otherwise possessed or knew the information;

1 (h) during their depositions, witnesses, and attorneys for witnesses, in the
2 Action to whom disclosure is reasonably necessary, subject to the provisions herein,
3 provided: (1) the witness signs the “Acknowledgement and Agreement to Be
4 Bound” attached as Exhibit A hereto; and (2) they will not be permitted to keep any
5 confidential information unless otherwise agreed by the Designating Party or
6 ordered by the court. Pages of transcribed deposition testimony or exhibits to
7 depositions that reveal Protected Material may be separately bound by the court
8 reporter and may not be disclosed to anyone except as permitted under this
9 Stipulated Protective Order; and

10 (i) any mediator or settlement officer, and their supporting personnel,
11 mutually agreed upon by any of the parties engaged in settlement discussions.

12 7.3. Disclosure of “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES
13 ONLY” Information or Items. Unless otherwise ordered by the Court or permitted
14 in writing by the Designating Party, a Receiving Party may disclose any information
15 or item designated “HIGHLY CONFIDENTIAL —ATTORNEYS’ EYES ONLY”
16 only to:

17 (a) The Receiving Party’s Outside Counsel of Record in this Action, as
18 well as employees of said Outside Counsel of Record to whom it is reasonably
19 necessary to disclose the information for this Action;

20 (b) Experts (as defined in this Order) of the Receiving Party to whom
21 disclosure is reasonably necessary for this Action and who have signed the
22 “Acknowledgement and Agreement to Be Bound” attached hereto as Exhibit A;

23 (c) professional jury or trial consultants, mock jurors, and Professional
24 Vendors to whom disclosure is reasonably necessary for this Action and who have
25 signed the “Acknowledgment and Agreement to Be Bound” attached as Exhibit A
26 hereto;

27 (d) The author or recipient of a document containing the information or a
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1 custodian of the document;

2 (e) The Court and its personnel, any other person (such as a master or
3 mediator) who serves in a judicial or quasi-judicial function, professional
4 stenographic reporters engaged to transcribe testimony (under seal or with other
5 suitable precautions determined by the Court); and

6 (f) Any other persons as to whom all the parties in writing agree, provided
7 that such persons have first been given a copy of this Order and have executed the
8 “Acknowledgment and Agreement to Be Bound” attached hereto as Exhibit A.

9
10 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
11 IN OTHER LITIGATION

12 If a Party is served with a subpoena or a court order issued in other litigation
13 that compels disclosure of any information or items designated in this Action as
14 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
15 ONLY” that Party must:

16 (a) promptly notify in writing the Designating Party. Such notification
17 will include a copy of the subpoena or court order;

18 (b) promptly notify in writing the party who caused the subpoena or order
19 to issue in the other litigation that some or all of the material covered by the
20 subpoena or order is subject to this Protective Order. Such notification will include
21 a copy of this Stipulated Protective Order; and

22 (c) cooperate with respect to all reasonable procedures sought to be
23 pursued by the Designating Party whose Protected Material may be affected.

24 If the Designating Party timely seeks a protective order, the Party served with
25 the subpoena or court order will not produce any information designated in this
26 action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
27 EYES ONLY” before a determination by the court from which the subpoena or
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1 order issued, unless the Party has obtained the Designating Party's permission. The
2 Designating Party will bear the burden and expense of seeking protection in that
3 court of its confidential material and nothing in these provisions should be construed
4 as authorizing or encouraging a Receiving Party in this Action to disobey a lawful
5 directive from another court.

6
7 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE
8 PRODUCED IN THIS LITIGATION

9 (a) The terms of this Order are applicable to information produced by a
10 Non-Party in this Action and designated as Protected Material. Such information
11 produced by Non-Parties in connection with this litigation is protected by the
12 remedies and relief provided by this Order. Nothing in these provisions should be
13 construed as prohibiting a Non-Party from seeking additional protections.

14 (b) In the event that a Party is required, by a valid discovery request, to
15 produce a Non-Party's confidential information in its possession, and the Party is
16 subject to an agreement with the Non-Party not to produce the Non-Party's
17 confidential information, then the Party will:

18 (1) promptly notify in writing the Requesting Party and the Non-Party
19 that some or all of the information requested is subject to a confidentiality
20 agreement with a Non-Party;

21 (2) promptly provide the Non-Party with a copy of the Stipulated
22 Protective Order in this Action, the relevant discovery request(s), and a reasonably
23 specific description of the information requested; and

24 (3) make the information requested available for inspection by the
25 Non-Party, if requested.

26 (c) If the Non-Party fails to seek a protective order from this court within
27 14 days of receiving the notice and accompanying information, the Receiving Party
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1 may produce the Non-Party's confidential information responsive to the discovery
2 request. If the Non-Party timely seeks a protective order, the Receiving Party will
3 not produce any information in its possession or control that is subject to the
4 confidentiality agreement with the Non-Party before a determination by the court.
5 Absent a court order to the contrary, the Non-Party will bear the burden and expense
6 of seeking protection in this court of its Protected Material.

7
8 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

9 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
10 Protected Material to any person or in any circumstance not authorized under this
11 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
12 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
13 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
14 persons to whom unauthorized disclosures were made of all the terms of this Order,
15 and (d) request such person or persons to execute the "Acknowledgment and
16 Agreement to Be Bound" that is attached hereto as Exhibit A.

17
18 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
19 PROTECTED MATERIAL

20 When a Producing Party gives notice to Receiving Parties that certain
21 inadvertently produced material is subject to a claim of privilege or other protection,
22 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
23 Procedure 26(b)(5)(B). This provision is not intended to modify whatever
24 procedure may be established in an e-discovery order that provides for production
25 without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and
26 (e), insofar as the parties reach an agreement on the effect of disclosure of a
27 communication or information covered by the attorney-client privilege or work
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product protection, the parties may incorporate their agreement in the Stipulated Protective Order submitted to the court.

12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

12.3 Filing Protected Material. A Party that seeks to file under seal any Protected Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Party's request to file Protected Material under seal is denied by the court, then the Receiving Party may file the information in the public record unless otherwise instructed by the court.

13. FINAL DISPOSITION

After the final disposition of this Action, as defined in paragraph 4, within sixty (60) days of a written request by the Designating Party, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that

(1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4.

14. Any willful violation of this Order may be punished by any and all appropriate measures including, without limitation, contempt proceedings, financial or evidentiary sanctions, reference to disciplinary authorities, or other appropriate action at the discretion of the Court.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: June 14, 2024

AARONSON & AARONSON

By /s/ Arthur Aaronson

ARTHUR AARONSON, Attorneys for
Plaintiffs

DATED: June 14, 2024

MITCHELL SILBERBERG & KNUPP
LLP

By /s/ Lucia Cocoya

Lucia Coyoca
Attorneys for Defendants

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: December 3, 2024



HON. ALICIA G. ROSENBERG
United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [full name], of _____
[full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on [date] in the case of _____ [insert formal name of the case and the number and initials assigned to it by the Court]. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint _____ [full name] of _____ [full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____